ÉTUDE SUR LES POLITIQUES DE SERVICES GOUVERNEMENTAUX EN FRANÇAIS À L'ÎLE-DU-PRINCE-ÉDOUARD

Rapport présenté au:

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Préparé par:
DPA Group

En association avec:
SECOR

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Policy Analysis

1. The Policy Context

The issue of providing Government services to francophones on P.E.I. in the language of their choice must be considered in three contexts: the context of history, the context of culture, and the context of constitutional development.

1.1 The Context of History

The colonization of Prince Edward Island was initiated by 300 French settlers in 1720. By 1758 the French population on the Island had reached approximately 5,000, in about 34 settlements, with all the evidence of a permanent community. For reasons not of their making and for which they had given no cause, almost all of those pioneer settlers were expelled from the Island by British soldiers late in 1758. Only four settlements, consisting of fewer than 200 people, escaped the deportation.

The expulsion occurred prior to the termination of the Seven Years War between England and France and was justified on the basis of military necessity, for the security of the British forces. It was a military decision only and did not bear on British plans for the permanent settlement of the Island.

By the terms of the Treaty of Paris of 1763 which ended the Seven Years War, France ceded most of its North American empire to Britain, including Ile St-Jean. In return, the British bound themselves to respect French cultural, religious, and language rights in their new lands, again including Ile St-Jean. Thus after 1763 Acadian residents on P.E.I. did not remain here by sufferance or because they successfully eluded the attention of the British, thus avoiding further expulsions. They remained here by right, with the right to remain French in language and in culture.

With the arrival of the first British settlers in the late 1760s, more than forty-five years after French settlement, the Island became a bilingual and bicultural community, which it has remained for more than 220 years.

Despite the rights afforded to them by the Treaty of Paris, the growing minority status of the Acadians on P.E.I. soon placed them in a precarious position. Over the next several decades they were to experience many forms of prejudice, including social avoidance, exclusion from communities, overt discrimination in various forms, physical abuse and attacks, having already experienced attempts at extermination. Difficulties caused by the agents for absentee landlords led the early Acadians to seek geographical isolation from the dominant anglophone community, such as the dispersal of the Malpeque community to other unsettled parts of Prince County. It was clearly in the interest of the Acadians to remain within self-contained communities, with the least possible contact with the British.

The Free Education Act of 1852, immediately after the granting of Responsible Government to P.E.I., was the first major break by the P.E.I. Assembly with the spirit and intent of the Treaty of Paris. This legislation forced Acadian teachers to conduct their classes in English or forego their salaries. This was a reflection of the dominant view within the Island Government, as expressed by Premier John Hamilton Gray, that the Acadians should "become amalgamated rather than keep up unnecessary distinctions". By mid-Century, this viewpoint had almost reached the status of ideology, proposing the replacement by the Acadians of their beliefs and customs with those of the English majority. Assimilation meant only that the Acadians would become like the British, with no apparent middle ground; this was somehow perceived as being in their best interests.

While the harsh provisions of the Free Education Act were later modified to permit French teachers to conduct classes in French, officially approved textbooks continued to be in English, thus presenting great difficulties for both tutors and scholars in an environment in which there were already scant inducement to formal schooling. This continued to be the situation in Acadian schools for the next hundred years.

(It is only in recent years that a French school, French textbooks and reference materials, and teaching in French has been fully recognized in the Province, and then only in the Evangeline School Unit, and later at Ecole Francois Buote in 1980.)

Historically, then, cultural and language rights were assured to French settlers on P.E.I. by the British Government, and perforce by its successors, through the Treaty of Paris by which Ile St-Jean was transferred to British control.

The issue of right should not become clouded with the passage of time or by the fact that the full enjoyment of original rights by the Acadians has been made difficult over much of Island history. Rights secured by British subjects through the Magna Carta have not lost their standing; rights safeguarded by the Treaty of Paris should equally remain valid, especially when later enshrined in the British North American Act by which Canada was created, and more recently in the Canada Constitution Act.

In the negotiations leading to agreement on Confederation French-speaking Canadians agreed to join with their English-speaking counterparts in the task of nation-building. They did so not with the notion of assimilation, but because of the security provided to them by the inclusion of Quebec in the new Constitution. When Prince Edward Island accepted Confederation little thought and attention appeared to have been given to the implications of that decision upon its

Acadian residents. The latter were very much aware of the standing of the French language and culture in the new country, and had strongly supported Confederation as being in their best interests. Life continued for the Island Acadians much as before Confederation.

It is apparent then, that the position of the Acadians on P.E.I. was not in any way comparable to that of immigrants who in later years knowingly came to a country which was dominantly English, prepared to become assimilated within the English-speaking community. (Even so, many of those later immigrants assimilated only with great difficulty.) The Acadians were the first settlers and one of the two co-founding peoples of Canada, and partners in its creation. Their position has never been in any way comparable to that of later arrivals.

There appears to be an indwelling barrier within some sectors of P.E.I. society which has obstructed fair consideration of the situation of Island Acadians in the correct historical context: the Acadians have always been here by right, with language and cultural rights assured by treaty and later by law, if not always by custom. It is in the context of historic right that the issue of providing public services to francophones in the language of their choice must first be considered by government.

1.2 The Context of Culture

It may be argued that the promise to respect French cultural and language rights in Canada did not, in 1763, imply the provision of public services to francophones in French. Among themselves the Acadians would of course be permitted to retain their language and customs, but if they were to obtain services from government then obviously it would be expected that they would have to speak the language of the majority. The British Government did not by the Treaty of Paris commit itself to speak French, so it may be argued.

At a time when interactions with Government were mainly a matter of paying taxes for public services and defending the state in a time of war, such an attitude, even though excluding francophones from a role in public service, would not appear to have been threatening to the survival of French culture, which had been assured for the Acadians.

The survival of culture was essential to the Acadian community: culture is the depository of the life experiences of a people, and is embedded in their communities and customs in many forms. It is at the heart of family and community life; it shapes social interactions, and influences both work and play; it gives new dimensions to religion and learning. And it provides the basis for training its members in the means for coping adequately with their physical, social, and technical environments.

As general life conditions change, traditional ways of doing things cease to provide an acceptable margin of satisfaction; new needs emerge, and new cultural adjustments must be made in accordance with them. But it is culture which provides a constant point of reference for a people, and a source of security to them in the face of constant social change. Thus the survival of their culture was important to Acadians on P.E.I. in those early years when they faced the constant threat of destruction or elimination, especially benign elimination under in the name of assimilation.

This was still the situation of the Acadian community on P.E.I. in the early 1860s, after Responsible Government had been achieved on the Island and during the movement towards Confederation. By that time, Acadian leaders had been made aware of the social, economic, and political horizons of the outside world, and the central issue then became for them, as for their successors today: how to achieve the economic advancement of the Acadian minority, which requires a fair

degree of integration with the majority anglophone community and culture, without endangering the survival of the Acadian cultural identity and the French language. While that issue has been merely vexatious to the anglophone majority, it has been central to the survival of the minority francophone community on the Island.

The French language was, for many years, perceived within the anglophone majority as primarily a stubborn remnant of an external culture, which would in time be engulfed within the North American anglophone sea. To succeed on P.E.I. Acadians would have to become bilingual, (a requirement which was not expected of their anglophone neighbours.) In due course it would follow that they would increase their use of English and eventually, in a practical sense, French would simply disappear. Thus the issue of language and bilingualism on the Island would be resolved.

In an effort at social ascension, many Acadians were to adopt the more prestigious language of the majority; at the extreme some even translated their names into English. That particular experiment proved not always to work in the favour of those who sought assimilation. Those who changed their names were not always accepted by the English and were sometimes rejected by the French, which left them in an even more marginal situation within Island society. Acadians learned that there was no easy road to successful assimilation, even if they were willing to travel it. While the community was divided on the issue, the course followed was one whereby the Acadians remained French, preserving their language and culture to the fullest extent possible, within the constraints of primarily an anglophone province.

Groups of Acadians dedicated to preserving their language and culture began to organize in the latter part of the 19th Century. They recognized what was being lost from their language, and perceived the need to retain the Acadian identity which was threatened with extinction by the actions

of the majority. They developed a self-sufficiency within their communities, and through hard work and resourcefulness have managed to survive as a people; this, despite lack of support even in areas where the State should normally have provided assistance, such as in education.

Anglophones on P.E.I. readily recognize that there is a difference to the Acadian culture, even when they are not able to identify that difference. Like the description of the elephant provided by the six blind men of Hindustan, Acadian culture has not been well described in its particulars: it has been defined in relation to family solidarity and mutual support, although those qualities may equally be found among anglophones; it has been defined in relation to music and dance and joie de vivre, but the Irish can also celebrate in as lively a fashion as Acadians; others may define it in their attachment to religious values and their traditional sources of spiritual inspiration, but Scotch Presbyterians are equally attached to religion and their spiritual wellsprings; the spirit of cooperation and the vitality of the co-op movement is strong among Acadians, but this is also found among anglophones; and so on.

What distinguishes Acadian culture is none of these. Acadian culture must instead be perceived in the light of the whole social fabric of the surviving Acadian communities. The human need for some sense of belonging made it necessary for the Acadian people to identify strongly with their own communities. Their disempowerment by the majority made them seek new sources of strength within themselves. Thus the heart of Acadian culture is the Acadian people together as a people, sharing and treasuring their language, developing within themselves a pride and self-confidence that the majority would not recognize within them. It was the lack of accommodation by the majority anglophone community which not only maintained the French cultural difference but also made it necessary.

Having survived in this province for almost 270 years, most of that time in an environment which was decidedly non-supportive if not at times violently hostile, the Acadian culture must surely be recognized as a source of strength to its people, and therefore as a source of strength to the whole province. One might ask: if it were not so, how could it have survived?

To the extent that culture and language are intertwined, Acadians should now be recognized in their efforts to preserve the French language within their communities and within their province. Those efforts are not as outsiders, but as Islanders, part of the "us" of the Island. Acadians should now, finally, be served by their government in their language, where such is their choice.

1.3 The Constitutional Context

In the present age we need no longer speak of the Treaty of Paris or of the British North America Act; the new Canadian Constitution Act and more recently the provisions and intent of the so-called "Meech Lake Agreement" speak to us with more authority and relevance.

Section 23 of the Canadian Constitution contains provisions for the protection of the school rights of official language minority communities, guaranteeing access to education in one or other of the official languages "wherever numbers warrant". Although that phrase was agreed to by the Government of P.E.I., government has subsequently turned to the Supreme Court of P.E.I. for an interpretation of the phrase "wherever numbers warrant" as the preferred course over seeking a political determination of the issue, such as through consultation with official minority group leaders. Thus despite its free acceptance of the provisions of the Constitution, the P.E.I. Government now seems to be asking the Court for direction as to how it should act in the matter of French language education.

The Meech Lake Agreement has provided constitutional development in Canada with an entirely new dimension. The First Ministers, with the Premier of Prince Edward Island playing a role later praised by the Prime Minister of Canada, agreed that all provinces have a role and duty in the protection of the special character of Canada as a bilingual country, and in the protection of the minority language population in every province. Provinces committed themselves not to take any actions which would advance assimilation of official minority language groups.

While First Ministers did not commit themselves to do anything new to foster bilingualism, they agreed to restrict themselves with respect to language duality in Canada and to demonstrate fair concern for the protection of official language minority groups wherever they are present.

This commitment of the provinces is strongly supported by amendments to the Official Languages Act now before the Parliament of Canada, which includes provision for Federal financial assistance to the provinces "to initiate bilingual services in sectors important to the daily life of communities in a minority situation". Through this legislation and associated policies, the Parliament of Canada has set out to encourage the recognition, use, and learning of the official languages in the broader Canadian society, beyond the statutory requirements covering Parliament itself, the Federal Courts, and Federal Statutes. Thus P.E.I. will have access to new Federal funds for language purposes and the issue of affordability will accordingly diminish.

The role of P.E.I. in constitutional development in Canada bears a parallel to the situation of francophones within P.E.I. This province has sought and obtained recognition within the Constitution as an equal partner with the other provinces, and has resisted colonial aspirations which have emerged from time to time at the Federal level.

Francophones on P.E.I have a parallel request at the provincial level, that they be recognized as equal partners with anglophones on Prince Edward Island, and that past colonial habits and practices within the provincial government vis-as-vis francophone communities now be abandoned.

In that sense the language issue is secondary to one of identity and status. At the core of the francophone request is simple recognition and respect, to be recognized as Islanders and Canadians in the mainstream, and to be respected as partners within a bilingual province and nation.

This will occur when they, like anglophones, achieve the right to have public services provided to them in their language of their choice.

2. The Policy Dimensions

There are four dimensions to the provision of Provincial Government services to francophones in the language of their choice. These are:

- services which are constitutionally protected
- services of a personal nature, involving one's person and privacy
- all other government services
- Government interaction with francophone groups.

2.1 Service Which are Constitutionally Protected

These extend to education and to actions under the Criminal Code before the Federal and Provincial courts.

In the matter of the Criminal Code, Article IV is quite clear with respect to the rights of the accused. In the case of education, the P.E.I. Government has asked to be directed by the Court in the discharge of its freely accepted constitutional commitments. The Constitution is itself a political document, assented to by the province, and it is appears unseemly for government to seek direction from the Courts as to the nature of its agreement.

What is indicated here is the need for the same sort of political compromise that produced the Constitution itself, whereby government and the chosen leaders of the francophone community within P.E.I. reach agreement on what is practical and pragmatic within the P.E.I.situation. Clearly, there is already widespread support on the part of the anglophone majority for greater movement in French education on the part of government, well ahead of government response to francophone requests.

With respect to the Courts, the province should anticipate the need for French-language services in order not to place

at any disadvantage any citizen whose freedom or property are at risk by actions of the Crown. This is particularly important in the area of legal aid and probation services, as well as in Youth Court services required under the Young Offenders Act.

2.2 Services of a Personal Nature

Services of a personal nature include; among others,

- hospital care
- home care services
- speech therapy
- child protection
- Public Health Nursing
- Mental Health services
- personal counselling
- residential care

and these should be provided in the language of choice to the fullest extent possible. Even well-educated and fully bilingual francophones on P.E.I. have adverted to difficulties which they sometimes experience when trying to explain a point of vital importance to them in English. On matters of personal health and welfare, the quality of service should not be diminished by reason of degrees of language proficiency.

In dealing with public officials in matters of personal concern or personal well-being, it is a matter of simple equity that all citizens should be treated on an equal basis, to the extent possible. Anglophones take for granted the provision of public services in their own language; this same privilege has seldom been afforded to francophones in the history of P.E.I., not even with respect to hospital care or nursing home care, nor in such an obvious need as speech therapy for a francophone child, or care attendant on childbirth, or in anticipation of death.

It is without question that in the case of public services of a personal nature francophones should have the option of having such services provided to them in the language of their choice, to ensure that the whole purpose of providing the service is not frustrated by a language barrier.

2.3 Other Government Services

There is little evidence of official public concern over the adequacy of public services to francophones who are not fully conversant with English. It is considered by the majority of officials that inasmuch as most francophones on the Island can also speak English there is no practical necessity of providing services in French within their various departments. This is particularly considered to be the case in those services which are not now heavily demand by francophones; there does not seem to be any recognition of a possible relationship between the low subscription rate by francophones and the lack of availability of services in French.

There are evident incongruities within the present system. For example, a number of positions within government have been designated as officially bilingual, and the persons appointed to them must be proficient in both official languages. However, the Civil Service Commission, the agency responsible for making the appointments does not itself have a bilingual requirement in any of its own positions.

For all of its services in all departments, the provincial government has only one officially designated translator, who does not have an opportunity to become familiar with the operations of all departments. For many reasons translations must of necessity favour literal renderings, without a full sense of the policy context within which documents should be translated. In some situations francophone staff may be requested to translate documents,

even though this is not a requirement of their positions and they may not have skills as translators. The assumption within departments seems to be that if an employee can speak French, he/she is capable of translating documents.

The conclusion is inescapable that francophones have not had full and fair access to government services because of language, and that the quality of public service available to them has been diluted by reasons of the historic language policy within the P.E.I. public service.

2.4 Interaction with Francophone Groups

For more than one hundred years Acadian groups have come together in the interests of protecting and preserving their language and culture. Throughout that whole period, whenever any of those groups met with government or with any of its departments or agencies, the language of the exchange almost always had to be English. Acadians could do as they wished among themselves, but when they had reason to deal with their government they could do so only in English, with few exceptions.

Thus in expressing the urgency of their concerns to government agencies, (all the more apparent now in view of the 25% decline in the numbers of francophone Islanders between 1961 to 1981), francophone groups could seldom expect to encounter a mind-set borne out of an understanding of their experience and culture. What they encountered was most often an expression of arbitrary will, couched in the language of pragmatism and practicality.

Thus even where public policy was not overtly directed towards assimilation, the practices of government inevitably led in that direction. There was no reason and no political will to bring about change. For most of their history Acadians who considered their language important would find, each time they approached their government, that their

language was not important at all, at least not in the broader context of the province and the outside world. This kind of disrespect for language has diminished in recent years and a greater openness has developed in a number of key areas, but these continue to be the exception rather than the rule.

3. Policy Proposals

3.1 General Policy Statement

- The first and most urgent wish of francophones on P.E.I. is for a public policy statement by Government recognizing that there is a francophone population on the Island, that there are two equal founding peoples in this country, and that there is a need for the provision of public services for both of the founding people in the language of their choice, consistent with long-standing rights.

  Such a statement is most important in establishing basic guidelines for francophone groups in dealing with their government, and avoiding change and caprice on the part of successive governments.

- It is also requested that with the general statement of policy, provision be made for its implementation over time throughout government departments, in accordance with the recommendations which follow. It should be made clear that implementation should occur over time, and on a geographical basis, based on negotiations with francophone groups as to required services and timing.

3.2 Constitutionally Protected Services

- Regardless of the outcome of the current Court case bearing on education, and without reference to the present arrangement adopted by the province for the administration of its education program and policies, government should negotiate with francophone community leaders appropriate new policies for the strengthening of French education and French language training on P.E.I., including the designation of new French schools.

3.3 Services of a Personal Nature

It is also requested that:

- All public agencies providing direct personal services to individuals be required to acquire bilingual capability in those areas where there is a demand for services to be provided in French. This is particularly required or hospitals, homes for the aged, and home care services of the Social Services Branch, as well as other personal services of a sensitive nature as listed in Section 2.2 above.

- That government undertake, in conjunction with the Government of Canada, a program of French language training directed towards ensuring personal services in French within all designated agencies within five years.

3.4 Other Government Services

With respect to all services of government, it is requested that:

- Provision be made through the Regional Services Centres and in Head Office locations when appropriate, for either a brokerage or referral service facilitating access by francophones to all services in the language of their choice. This does not mean designating the Evangeline Regional Services Centre as the central receiving office for all francophones requiring government services, for example; it means, rather, replicating the bilingual capability of that office in other regions of the province, particularly in O'Leary and Summerside.

(What is essential is that francophones be assured that they can obtain services from all branches of

government at the same level of quality as anglophones, without being required to acquire the same level of proficiency in English.)

. That government undertake to ensure the availability of an appropriate French-language response to requests for services in offices where there is potential francophone demand.

3.5 Interactions With Francophone Groups

. With respect to all formal interactions between government and francophone groups, particularly where there are occasions for frequent interactions, there should be a bilingual capacity within each department of government at a relatively senior level. Francophone groups seeking to preserve and protect their language and culture should not be placed in the compromising position of having to abandon their language when making submissions in that behalf to government. There is an incongruity in making the case for the preservation of the French language in the English language.

3.6 General

. That Government designate a lead agency to develop guidelines for the implementation of a bilingual policy in the province, now long overdue.

. That government now adopt a policy whereby French language proficiency will be available in all government departments and agencies within five years, where possible by senior employees whose first language is French.

. That in recognition of the bilingual character of the province and the country, P.E.I. adopt bilingual policies covering such matters as

- language training
- translation services
- appointments to government
- advertising
- road and other signage
- printed matter

. That the Civil Service Commission be directed to undertake a program to increase the level of awareness among public servants of the needs of francophones, including the designation of a greater number of bilingual positions as proposed above.

4.0 Beyond the Language Issue

While this document addresses itself to provision of government services to francophones in the language of their choice, there is a rationale outside the framework of Section 1 which should be considered. That is to say, while it may have been pragmatic and practical on the part of the P.E.I. government to have adopted an informal policy of assimilation in the past, it is no longer either practical or pragmatic to continue such a policy position, for three reasons:

1) The Constitution Act and the Official Languages Act provides that every Canadian has a right to be served in one or other of the official languages in all parts of Canada. Increasingly, this implies a greatly enhanced bilingual capacity in federal government service, as well as in other forms of public service where the Courts may compel bilingual services, such as in Crown Corporations. Parents in anglophone communities have recognized this new development and are enrolling children in French immersion classes, not only for the cultural exposure but also for the sake of future job opportunities.

   It can be expected that at senior levels of the federal public service and within Crown Corporations, and within leading Canadian business institutions, bilingualism will be an increasing requirement in future years. Islanders, both francophone and anglophone, should not be excluded from those job and career opportunities by reason of the province's reluctance to commit itself fully to the bilingual character of the country.

2) French Canada represents a major tourism market which has only been marginally captured by P.E.I. While tourists seek different experiences when they travel,

they also want to feel welcome in the places they visit. It means a great deal to tourists to be able to converse in their own language, particularly in the event of emergencies or in times of distress.

Despite its francophone population, the Island is not generally recognized by francophones or others as having a bilingual character, and it has made scant effort to accommodate French visitors and business interests in the matter of language. Its captive customers in the Magdalen Islands, for example, seldom encounter a bilingual service, not even at the Souris terminus of its ferry service.

Improvements in the province's bilingual capacity simply represents good business in the present social and economic climate; the Acadian base represents a strength from which to capitalize on business possibilities within the Canadian and international francophone community.

3) The province is currently undertaking a study to demonstrate the economic impact of cultural activities on Prince Edward Island. Cultural industries represent a form of import replacement, and also a form of export to the extent that visitors come here expressly for cultural purposes. Acadian culture represents a component of that total cultural industry, a part of the "difference" which visitors seek to experience. The reinforcement of French language and culture on P.E.I. is thus reinforcement of our the province s cultural package, and our total offering to visitors, both French and English. After only a few short years of promoting Acadian culture there has already been an impact on Evangeline tourism, and this is indicative of what may happen with improved hospitality.

For these reasons our proposals with respect to bilingualism on P.E.I. are highly pragmatic, as well as reinforced by considerations of right and of law. Francophones would very much appreciate the opportunity to cooperate with Anglophone Islanders in the development of their province, after more than two centuries of life on the margin.